

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LARRY DARNELL JONES,

Plaintiff,

v.

MARK HORSLEY, *et al.*,

Defendants.

CASE NO. 1:18-CV-298

HON. ROBERT J. JONKER

ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION

The Court has reviewed Magistrate Judge Green’s Report and Recommendation in this matter (ECF No. 87) and Plaintiff’s Objections (ECF No. 95). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, “[t]he district judge . . . has a duty to reject the magistrate judge’s recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE, § 3070.2, at 451 (3d ed. 2014). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff’s Objections. The Court finds the Magistrate Judge’s Report and Recommendation, which recommends denying Plaintiff’s motion for summary

judgment (ECF No. 66); denying Defendants' corrected motion for summary judgment (ECF No. 80); and denying Plaintiff's counter-motion for summary judgment (ECF No. 82), factually sound and legally correct.¹

The Magistrate Judge carefully and thoroughly considered the evidentiary record, the parties' arguments, and the governing law. Plaintiff's objections do not address the Report and Recommendation in a persuasive way. The objections primarily amplify arguments Plaintiff has already made and the Magistrate Judge has already addressed properly. As the Report and Recommendation indicates, a reasonable juror could find in favor of either side. Neither Plaintiff nor Defendants are entitled to summary judgment, for the very reasons the Report and Recommendation details.

ACCORDINGLY, IT IS ORDERED:

1. The Report and Recommendation of the Magistrate Judge (ECF No. 87) is **APPROVED and ADOPTED** as the opinion of the Court.
2. Plaintiff's Motion for Summary Judgment and Counter-Motion for Summary Judgment (ECF Nos. 66, 82) are **DENIED**.
3. Defendants' Corrected Motion for Summary Judgment (ECF No. 80) is **DENIED**.

Dated: January 9, 2020

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE

¹ Defendants have not objected to the Report and Recommendation.